

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

Housatonic Water Works Company)	D.P.U. 23-65
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SETTLEMENT AGREEMENT

WHEREAS, Housatonic Water Works Company (“Company”) and the Office of the Attorney General (“AGO,” and together with the Company, the “Settling Parties”) enter into this Settlement Agreement regarding the Company’s petition filed with the Department of Public Utilities (“Department”) on June 23, 2023, seeking approval, pursuant to G.L. c. 164, § 94, c. 165, § 2, and 220 C.M.R. § 5.00, of a distribution rate increase of \$808,808 (“Initial Filing”);

WHEREAS, the Department docketed the Initial Filing as D.P.U. 23-65; the AGO intervened on July 14, 2023, as a matter of right pursuant to G.L. c. 12, § 11E(a), and the Department granted the petitions of Town of Great Barrington, the Town of Stockbridge, and the Town of West Stockbridge for leave to intervene on September 29, 2023;

WHEREAS, the Company has responded to approximately 128 information requests issued by the Department, the AGO, the Town of Great Barrington, and the Town of Stockbridge;

WHEREAS, the Settling Parties have raised competing and disputed claims regarding various matters contained in the Initial Filing but wish to resolve all issues in D.P.U. 23-65 specified in Article I and Article II of this Settlement Agreement, on mutually agreeable terms, and without establishing any new precedent or principle applicable to any other proceedings, except as specifically stated herein;

NOW, THEREFORE, in consideration of the exchange of promises and covenants contained herein, the legal sufficiency of which the Settling Parties acknowledge, the Settling Parties agree, subject to the Department's approval, to the following:

ARTICLE I: TERMS OF SETTLEMENT

1.1. Overview

- 1.1.1. As an alternative to a fully litigated rate case, the Settling Parties agree to reduce the Company's proposed base distribution rate increase of \$808,808 to \$211,222 and to implement rate increases in phases.
- 1.1.2. The Settling Parties agree that the Company's revenue requirement is \$928,882, an increase of \$211,222 or 29.43 percent over currently effective rates. This base distribution rate increase will be deferred, in part, and implemented in phases as outlined in Section 1.3.
- 1.1.3. The capital improvement projects described in Section 1.2.5 ("Capital Project List") will not be included in rate base until they have been placed in service, and rate recovery will be subject to the provisions of Sections 1.2 and 1.3. The incremental cost of service attributable to projects on the Capital Project List may be deferred, in part, and will be implemented in up to five phases as outlined in Section 1.3.
- 1.1.4. Each of the revenue increases stated in Section 1.3 ("Scheduled Revenue Increases") shall be allocated as equal percent increases across all rate classes and all rate elements.
- 1.1.5. The carrying cost of any deferral under Sections 1.1.1 or 1.1.3 shall be calculated monthly based on the prime rate of interest published in the *Wall Street Journal*.

- 1.1.6. For purposes of this Settlement, the Settling Parties further agree that the return on common equity for accounting and other relevant purposes shall be 9.50 percent.
- 1.1.7. The attached schedules represent the substance of the Settling Parties' agreement on rate and service issues in D.P.U. 23-65. The Settling Parties omitted schedules showing the development of the Company's revenue requirements because they agree to the final rate and revenue figures, but not on amounts relating to individual items of cost of service. A revenue proof analysis under the proposed rates is attached to this Settlement Agreement as Schedule 1. A bill impact analysis is attached as Schedule 2. The proposed tariffs are attached as Schedule 3. Tariff M.D.P.U. No. 23 (Schedule of Water Rates) reflects rates agreed to in the Settlement Agreement for effect on August 1, 2024, and Tariff M.D.P.U. No. 24 (Rules and Regulations) is being filed with changes reflecting additional agreed upon terms.¹ Exemplar Tariff M.D.P.U. 25 reflects rates agreed to in the Settlement Agreement for effect on August 1, 2025. Exemplar Tariffs applicable to Phases 3 through 5 are not attached to this Settlement Agreement, because the Phase 2 rates and subsequent rates will be subject to Department prudence review and reconciliation of actual incremental costs. An explanatory statement is attached as Schedule 4.
- 1.1.8. The Settling Parties agree that the rate structure set forth in Tariff M.D.P.U. No. 23 and M.D.P.U. No. 25 produce just and reasonable rates. The rate design is consistent with the Department's principles of: (1) efficiency; (2) simplicity; (3) rate fairness; (4) rate continuity; and (5) earnings stability.

¹ Because the Company refiled its tariffs during the proceeding in D.P.U. 23-65, the redlines to M.D.P.U. No. 23 and M.D.P.U. No. 24 only reflect changes from the terms that the Company originally sought in its Initial Filing.

1.1.9. The Settling Parties agree that the Company's Rules and Regulations, as reflected in M.D.P.U. No. 24, are just and reasonable and should be approved.

1.1.10. The Settling Parties agree that the Company's Schedule of Water Rates, M.D.P.U. No. 23, as appended hereto, for effect August 1, 2024, is just and reasonable and should be approved. The Settling Parties further agree that subject to the Department's approval of the Company's Phase 2 compliance filing, that the Company's exemplar Schedule of Water Rates, M.D.P.U. No. 25, as appended hereto, for effect August 1, 2025, is just and reasonable and should be approved.

1.2. Capital Projects

1.2.1. The Settling Parties agree that the projects on the Capital Project List included in Section 1.2.5 has one project in Section 1.2.5.1 that was required by the Department of Environmental Protection and three projects that are proposed for construction by the Company in Sections 1.2.5.2, 1.2.5.3, and 1.2.5.4. Except as provided in Sections 1.2.5.3 and 1.2.5.4, Scheduled Revenue Increases will be effective on the date applicable to the phase ("Phase Effective Date"). Notwithstanding the foregoing, if the commissioning date for any project is delayed beyond the otherwise applicable Phase Effective Date, the Phase Effective Date shall be on the first day of the month following the date that the project is in service. The Scheduled Revenue Increases represent the maximum revenue increase attributable to a project on the Capital Project List that may be recovered and will be further subject to Department prudence review and subsequent reconciliation of actual incremental revenue requirement. The Settling Parties agree that the prudently incurred incremental operation and maintenance costs and/or savings and

revenue requirement associated with the projects on the Capital Project List, including depreciation, return on net investment, after any grants or other outside funding (net of accumulated depreciation and accumulated deferred income taxes) and taxes as approved by the Department shall be allowed.

- 1.2.2. After a capital project is placed in service, the Company shall submit to the Department compliance filings and revised tariffs with sufficient documentation and workpapers to allow for verification of the actual incremental costs-of-service attributable to the project. If the Department finds that the sum of (1) the prudently incurred incremental cost of service attributable to the project and (2) rate deferrals from prior phases including carrying costs at the prime rate of interest as reported in the *Wall Street Journal* is less than the Scheduled Revenue Increase for that phase, the Scheduled Revenue Increase shall be reduced to equal the sum and any over-recovery of those costs from customers shall be returned with interest at the prime rate of interest to customers through lower rates. If the sum exceeds the applicable Scheduled Revenue Increase, any overage in the incremental cost of service attributable to the project will be addressed in the Company's next base distribution rate proceeding.
- 1.2.3. The Settling Parties agree that it will be reasonably necessary for the Company to obtain financing in order for the Company to undertake the capital projects with the greatest efficiency. The Company will file long-term debt financing petitions with the Department as soon as practicable, and as needed, to ensure financing is in place to support the construction schedules contemplated in the Capital Project List.

1.2.4. The Company and the Towns shall work cooperatively to investigate the availability of grants or alternative financing to support the capital projects. If commercially reasonable lower-cost financing or grants are obtained to support the projects, customers shall receive the benefit of the savings which shall be reflected in the Company's compliance filings.

1.2.5. Capital Project List

1.2.5.1. Manganese Filtration System. The details and capital cost of the manganese filtration system project are provided in the Company's response to Information Request AG-1-8 and its attachment and Exhibit JJM-1, at 4-6, filed in D.P.U. 23-65. The project is currently expected to be in service in the fourth quarter of 2024. The maximum revenue increase associated with this project, along with deferrals and carrying cost from Phase 1, is reflected in the Phase 2 Scheduled Revenue Increase, and deferred, in part, to Phase 3.

1.2.5.2. Great Barrington Fire District Interconnection. The details and capital cost of the Great Barrington Fire District Interconnection project are provided in the Company's response to Information Request AG-1-12 and its attachment and Exhibit JJM-1, at 7, filed in D.P.U. 23-65. The project is currently expected to be in service in the third quarter of 2025. The maximum revenue increase associated with this project, along with deferrals and carrying cost from Phase 1 and Phase 2, is reflected in the Phase 3 Scheduled Revenue Increase. Prior to commencing this project, and no later than January 1, 2025, the Company shall provide the Towns updated estimates of the costs associated with the project and the expected incremental revenue

requirement. The Towns and the Company shall meet and confer within fourteen (14) days after the Company has provided updated estimates. The Towns shall have the option to decide whether the Company should proceed with the project. If the Towns opt to proceed, they shall provide the Company a Notice to Proceed in writing no later than 5:00 pm Eastern time on February 1, 2025, and the Scheduled Revenue Increase for Phase 4 shall reflect the updated costs and will be effective on the Phase Effective Date. If the Towns do not provide the Company a Notice to Proceed by 5:00 pm Eastern time on February 1, 2025, this Settlement Agreement shall terminate at 5:00 pm on August 1, 2026, unless the Towns and the Company have mutually agreed to extend any of the foregoing deadlines in writing.

1.2.5.3. Water Storage Tank. The details and capital cost of the water storage tank project are provided in the Company's response to Information Request AG-1-9 and its attachment and Exhibit JJM-1, at 6, filed in D.P.U. 23-65. The project is currently expected to be in service in the fourth quarter of 2025. Prior to commencing this project, and no later than January 1, 2025, the Company shall provide the Towns updated estimates of the costs associated with the project and the expected incremental revenue requirement. The Towns and the Company shall meet and confer within fourteen (14) days after the Company has provided updated estimates. The Towns shall have the option to decide whether the Company should proceed with the project. If the Towns opt to proceed, they shall provide the Company a Notice to Proceed in writing no later than 5:00 pm Eastern time on February 1, 2025, and the

Scheduled Revenue Increase for Phase 4 shall reflect the updated costs and will be effective on the Phase Effective Date. If the Towns do not provide the Company a Notice to Proceed by 5:00 pm Eastern time on February 1, 2025, this Settlement Agreement shall terminate at 5:00 pm on August 1, 2026, unless the Towns and the Company have mutually agreed to extend any of the foregoing deadlines in writing.

1.2.5.4. Main Replacement. The details and capital cost of the first phase of the Company's 10-year main replacement project are provided in the Company's response to Information Request AG-1-10 and its attachment and Exhibit JJM-1, at 6, filed in D.P.U. 23-65. The project is currently expected to be in service in the first quarter of 2027. Prior to commencing this project, and no later than January 1, 2025, the Company shall provide the Towns updated estimates of the costs associated with the project and the expected incremental revenue requirement. The Towns and the Company shall meet and confer within fourteen (14) days after the Company has provided updated estimates. The Towns shall have the option to decide whether the Company should proceed with the project. If the Towns opt to proceed, they shall provide the Company a Notice to Proceed in writing no later than 5:00 pm Eastern time on February 1, 2025, and the Scheduled Revenue Increase for Phase 5 shall reflect the updated costs and will be effective on the Phase Effective Date. If the Towns do not provide the Company a Notice to Proceed by 5:00 pm Eastern time on February 1, 2025, this Settlement Agreement shall terminate

at 5:00 pm on August 1, 2026, unless the Towns and the Company have mutually agreed to extend any of the foregoing deadlines in writing.

1.3. Phases

The amounts of revenue requirement described for each phase in this section, after Phase 1, are estimates and upper limits for the revenue requirement used to determine the rate increases for each phase which ultimately will be calculated based on the actual costs associated with the net investment in plant in service and when those increases become effective.

1.3.1. Phase 1. The Phase Effective Date for Phase 1 shall be August 1, 2024. The total revenue requirement in Phase 1 is \$928,882. The Scheduled Revenue Increase shall be \$129,153, which is an 18 percent increase in revenues over current rates, resulting in a revenue deficiency of \$82,069, the recovery of which deficiency shall be deferred.

1.3.2. Phase 2. The Phase Effective Date for Phase 2 shall be August 1, 2025. The total revenue requirement in Phase 2 shall be no more than \$1,212,849. The Scheduled Revenue Increase shall be no more than \$336,043, which is a 39.68 percent increase over Phase 1 rates. resulting in a revenue deficiency of \$29,993, the recovery of which deficiency shall be deferred.

1.3.3. Phase 3. The Phase Effective Date for Phase 3 shall be August 1, 2026. The total revenue requirement in Phase 3 shall be \$1,269,549. The Scheduled Revenue Increase shall be \$86,693, which is a 7.33 percent increase over Phase 2 rates; provided, however, that if this Settlement Agreement will terminate pursuant to

Sections 1.2.5.2, 1.2.5.3, or 1.2.5.4, the Scheduled Revenue Increase shall only include deferrals and carrying cost from Phase 1 and Phase 2..

1.3.4. Phase 4. The Phase Effective Date for Phase 4 shall be August 1, 2027. Unless modified pursuant to Section 1.2.5.3, the total revenue requirement shall be no more than \$1,440,599, and the Scheduled Revenue Increase shall be no more than \$171,050, which is a 13.47 percent increase over Phase 3 rates.

1.3.5. Phase 5. The Phase Effective Date for Phase 4 shall be August 1, 2028. Unless modified pursuant to Section 1.2.5.4, the total revenue requirement shall be no more than \$1,620,839, and the Scheduled Revenue Increase shall be no more than \$180,240, which is a 12.51 percent increase over Phase 4 rates.

1.4. Stay Out Provision. The Settling Parties agree that other than compliance filings and reports submitted under Section 1.2.2, the Company shall not make any filing with the Department that would have the effect of increasing rates to customers with an effective date prior to August 1, 2028, unless the Settlement Agreement has terminated pursuant to Sections 1.2.5.2, 1.2.5.3, or 1.2.5.4, in which case the Company shall not make any filing with the effect of increasing rates to customers with an effective date prior to August 1, 2026.

ARTICLE II: SETTLEMENT CONDITIONS

2.1. This Settlement Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in this proceeding is true or false.

2.2. The making of this Settlement Agreement establishes no principles and shall not be deemed to foreclose any party from making any contention in any future proceeding or

investigation, except as to those issues and proceedings that are stated in this Settlement Agreement as being specifically resolved by approval of this Settlement Agreement.

- 2.3. This Settlement Agreement is the product of settlement negotiations. The Settling Parties agree that the content of these negotiations (including any workpapers or documents produced in connection with the negotiations) are confidential, that all offers of settlement are without prejudice to the position of any party or participant presenting such offer or participating in such discussion, and, except to enforce rights related to this Settlement Agreement or defend against claims made under this Settlement Agreement, that they will not use the content of said negotiations in any manner in this or other proceedings involving one or more of the parties to this Settlement Agreement, or otherwise.
- 2.4. The Settling Parties intend that the Company's customers and shareholders receive the full value of the settled matters, and not some substitute regulatory treatment of lesser value either now or in the future and agree that no terms of this Settlement Agreement will be used or interpreted to diminish, in any way, the intended customer or shareholder benefit related to this Settlement Agreement.
- 2.5. The provisions of this Settlement Agreement are not severable. This Settlement Agreement is conditioned on its approval in full by the Department. This Settlement Agreement is also contingent upon the provision of accurate and truthful information by the Company during the settlement negotiation process.
- 2.6. If the Department does not approve this Settlement Agreement in its entirety by August 1, 2024, the Settlement Agreement shall be deemed to be withdrawn and shall not constitute a part of the record in this or any other proceeding or used for any other purpose.

- 2.7. To the extent permitted by law, the Department shall have its usual jurisdiction to implement the terms of this Settlement Agreement. Nothing in this Settlement Agreement, however, shall be construed to prevent or delay the Attorney General from pursuing any cause of action related to this Settlement Agreement in court under G.L. c. 93A or otherwise.
- 2.8. Under no circumstances shall: (1) any charge under this Settlement Agreement or tariffs promulgated hereunder recover costs that are collected by the Company more than once, or through some other rate, charge, or tariff; or (2) any charge recover costs more than once in any other rate, charge, or tariff collected by the Company, it being acknowledged by the Settling Parties that such collection(s) described in this article unless fully refunded with interest, as soon as reasonably possible, shall constitute a breach of this Settlement Agreement when discovered and generally known, and be deemed to violate the involved tariffs.
- 2.9. Notwithstanding any provision in this Settlement Agreement to the contrary, no part of this Settlement Agreement shall be interpreted to interfere with the Attorney General's rights to petition the Department under G.L. c. 164, § 93, or otherwise under law or regulation, for a review of the Company or any reason.
- 2.10. The terms of this Settlement Agreement shall be governed by Massachusetts law and not the law of some other state. This Settlement Agreement shall be effective upon approval by the Department, regardless of any pending appeals or motions for reconsideration, clarification, or recalculation.
- 2.11. The signatories listed below represent that they are authorized on behalf of their principals to enter into this Settlement Agreement.

2.12. This Settlement Agreement may be signed in counterparts each of which shall be deemed an original and all of which together shall constitute one in the same document.

**HOUSATONIC WATER WORKS
COMPANY**

**ANDREA JOY CAMPBELL
ATTORNEY GENERAL**

By its Attorneys,

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